



JUSTICE CHRONICLES

Region Legal Service Office Southwest

Command Services DH: (619) 556-2789

Command Services LCPO: (619) 556-0839

Trial Department: (619) 556-9293

NB San Diego SJA: (619) 556-5533 – DSN 526

NB Coronado SJA: (619) 545-8143 – DSN 735

NB Point Loma SJA: (619) 553-7190 – DSN 553

CNRSW SJA: (619) 532-1418 – DSN 522

NAS Lemoore SJA: (559) 998-3889/3352 – DSN 949

NB Ventura SJA: (805) 989-1706/8929/8891 – DSN 351

NAS Fallon SJA: (775) 426-2854 – DSN 890

NAWS China Lake SJA: (760) 939-6065 – DSN 437

NSA Monterey SJA: (831) 656-2506 – DSN 756

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FUNDRAISING REMINDERS

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As we approach the holiday season, beware of fundraiser pitfalls. Fundraisers by internal command organizations/ by your own for your own (BYOFYO) in other than designated authorized public areas must be held either inside the respective organization's building or if outside, in an area which isn't visible to the public and not in proximity to MWR or NEX vendor food sale outlets. BYOFYO events may not be advertised to personnel of other commands/organizations. Note: the Morale, Welfare and Recreation Department is the one and ONLY MWR, avoid invoking MWR in titles when advertising an event. It is recommended that instead of using MWR use "Recreation Committee" or something to that effect. Do not hold up signs on public thoroughfares, post flyers on the outside of government buildings, telephone poles, base shuttle pickup/drop off areas or on POV windshields. Best practice – internal organization common posting place, i.e. billboard in employee break/lunchroom. Participation must be truly voluntary. There must be freedom of choice to participate or not to participate, and guarantees of confidentiality of the individual's decision. Be alert for undue command pressure to participate in fundraising events

Any questions regarding other types of fundraising should be addressed through your command ethics advisor or the NBSD Command Judge Advocate Civil Law staff at 619 556-3152, (619) 556-3158 or (619) 556-6318.

BAH/OHA FRAUD

The most common BAH fraud scheme is falsifying the location of page 2 dependents in order to collect a higher BAH than the member is authorized to receive. Members may claim their dependents live in Los Angeles, CA, Newport, RI, or San Diego, CA where the BAH rates are among the highest for CONUS locations. Another common scheme is falsifying a page 2 to claim dependents that are not actually dependents. A page 2 dependent can be a minor child, spouse, or parent for whom the service member provides more

*Service of Process Upon
Personnel and
Repossessions*

than 50% of living expenses. Parents are not automatically considered dependents when receiving support from a service member. Each case is reviewed individually by DFAS who must approve an individual as a dependent. Fraud requires that the service member actually know that he or she is not entitled to all or some portion of the BAH received. If the service member initially received the BAH innocently and later discovered the mistake but failed to correct it, there may still be fraud. If you believe that you have a potential case of BAH fraud you should consult with your local SJA, trial counsel, or RLSO SW Command Services attorney to review the case and the evidence.

SERVICE OF PROCESS UPON PERSONNEL AND REPOSSESIONS

JAGMAN § 0616 permits afloat and ashore Commanding Officers to authorize service of civil process of Federal or State courts upon active duty members, civilian employees, or contractors residing at or located on Naval installations. The civil process may be for civil or criminal subpoenas, repossession of personal property, or warrants of Federal or State courts. Service of such process shall not be made without the CO's consent. The intent of this provision is to protect against interference with mission accomplishment and to preserve good order and discipline while not unnecessarily impeding the court's work. Likewise, repossession of personal property belonging to a military member, where the property is located on a Naval installation, may be permitted in the discretion of the CO of the installation where the property is located. The CO or his/her designee, upon receiving a request to repossess personal property, shall review the documents and ensure they are in compliance with State law before permitting the repossession. The person whose property is to be repossessed should be asked if they wish to relinquish the property voluntarily. If you receive a request to facilitate the service of process or to repossess personal property, you should contact your nearest RLSO SW office for assistance.

Fraternization

FRATERNIZATION

Unduly familiar personal relationships between seniors and subordinates are contrary to naval custom because they undermine the respect for authority that is essential to the Navy's ability to accomplish its mission. Fraternization is prohibited and punishable under the UCMJ and prohibited relationships include:

- **Officer / Enlisted:** Personal relationships between officer and enlisted members that are unduly familiar and that do not respect differences in grade or rank. Such relationships are prejudicial to good order and discipline and violate long-standing traditions of the naval service.
- **Officer / Officer and Enlisted / Enlisted:** Personal relationships between officer members, or between enlisted members that are unduly familiar and that do not respect differences in grade or rank when they are prejudicial to good order and discipline, or of a nature to bring discredit on the naval service. Prejudice to good order and discipline may result from, but are not

Results of Trial

limited to, circumstances which:

- call into question a senior's objectivity;
- result in actual or apparent preferential treatment;
- undermine the authority of a senior; or
- compromise the chain of command.

Commands should investigate allegations and take appropriate administrative or disciplinary action when necessary.

RESULTS OF TRIAL

Navy E-4 with 4 years and 2 months of service, sentenced to a bad conduct discharge and 7 months of confinement for selling military property of a value of \$13,000, and stealing medical supplies of a value greater than \$500.00. This court was held on 6 July 2011.

Navy E-5 with 2 years and 11 months of service, sentenced to a bad conduct discharge, 4 months of confinement, and reduction in rank to E-1 for 5 specifications of larceny each of a value of more or less than \$500. This court was held on 7 July 2011.

Navy E-1 with 4 years and 10 months of service, sentenced to a bad conduct discharge and 7 months of confinement for 3 month unauthorized absence and wrongful possession and use of marijuana. This court was held on 26 July 2011.

Navy E-7 with 18 years and 7 months of service, sentenced to 85 days of confinement, forfeitures of \$500.00 per month for 3 months, reduction in rank to E-5, and a fine of \$3800.00 for 2 specifications of larceny each of a value of more or less than \$500.00. This court was held on 27 July 2011.

Navy E-7 with 18 years and 6 months of service, sentenced to 8 months of confinement and reduction in rank to E-6 for 11 specifications of larceny, the property of the San Diego Aviation Boatswain's Mate Association each of a value of more or less than \$500.00. This court was held on 2 August 2011.

Navy E-4 with 4 years and 9 months of service, sentenced to a bad conduct discharge, 185 days of confinement, and reduction in rank to E-1 for resisting apprehension, damaging a government vehicle, drunken driving, and simple assault on a DOD police officer. This court was held on 10 August 2011.

Navy E-7 with 18 years and 2 months of service, sentenced to a bad conduct discharge, 6 months of confinement, and reduction in rank to E-4 for 3 specifications of failure to obey an order or regulation, 6 specifications of maltreatment of subordinates, larceny of a value of \$2300, and 2 specifications of bribery. This court was held on 11 August 2011.

Navy E-4 with 9 years and 2 months of service, sentenced to a dishonorable discharge, 66 months of confinement, and reduction in rank to E-1 for

***Officer Board of
Inquiry Results***

knowingly receive images and video files of child pornography. This court was held on 19 August 2011.

Navy E-4 with 3 years and 2 months of service, sentenced to 5 months of confinement, forfeitures of \$1000.00 per month for 5 months, and reduction in rank to E-2 for attempt to commit indecent conduct and commit indecent conduct. This court was held on 30 August 2011.

Navy E-4 with 6 years and 4 months of service, sentenced to a bad conduct discharge, 5 months of confinement, forfeiture of \$900.00 per month for 5 months, and reduction in rank to E-1 for 5 specifications of larceny each of a value of more or less than \$500.00. This court was held on 12 September 2011.

Navy E-4 with 4 years of service, sentenced to 2 months of confinement, forfeitures of \$600.00 per month for 2 months, and reduction in rank to E-1 for a 6 month unauthorized absence. This court was held on 15 September 2011.

Navy E-2 with 4 years and 11 months of service, sentenced to 5 months of confinement, forfeiture of \$978.00 per month for 5 months, and reduction in rank to E-1 for 2 specifications of failure to obey a lawful general order or regulation, to wit: DON Sexual Harassment Policy. This court was held on 16 September 2011.

Navy E-1 with 3 years and 4 months of service, sentenced to a bad conduct discharge and 45 days confinement for perjury. This court was held on 20 September 2011.

Navy O-3E with 25 years and 2 months of service, sentenced to a fine of \$30,000 (7 months confinement if not paid within 12 months for 5 specifications of dereliction in performance of duties. This court was held on 26 September 2011.

OFFICER BOARD OF INQUIRY RESULTS

Navy O-4 was ordered to show cause for retention due to misconduct and substandard performance of duty: false official statements, forgery, conduct unbecoming an officer and gentlemen and debt, dishonorably failing to pay. Board members recommended separation with an other than honorable characterization. The Board of Inquiry was held on 4 August 2011.

Navy O-4 was ordered to show cause for retention due to misconduct and substandard performance of duty: failure to obey order or regulation, conduct unbecoming officer and gentlemen and failure to conform to prescribed standards of military deportment. Board members recommended retention. The Board of Inquiry was held on 8 August 2011.

Navy O-4 was ordered to show cause for retention due to misconduct and substandard performance of duty: failure to obey order or regulation, conduct unbecoming officer and gentlemen, and failure to conform to prescribed

standards of military department. Board members recommended retention. The Board of Inquiry was held on 6 September 2011.

Navy O-4 was ordered to show cause for retention due to misconduct and substandard performance of duty: failure to obey order or regulation, conduct unbecoming officer and gentlemen, engaging in unduly familiar relationship, conduct unbecoming officer and gentlemen, posting specific comments about crew on Facebook. Board members recommended retention. The Board of Inquiry was held on 13 September 2011.

Navy O-6 was ordered to show cause for retention due to misconduct and substandard performance of duty: intentional misrepresentation or omission of material fact in official written documents or oral statements, failure to satisfactorily complete any course of training, instruction, or indoctrination which the officer has been ordered to undergo when such failure is willful or the result of gross indifference and failure to conform to prescribed standards of military department. Board members recommended retention. The Board of Inquiry was held on 26 September 2011.

US Passport Fair

US PASSPORT FAIR

The Navy Exchange at Naval Base San Diego will be hosting a US Passport Fair on October 29th between 1000-1500 located at building 3187A, the Main Exchange. Photos can be taken onsite however; applicants are highly encouraged to bring their own passport photos to expedite the process. This is an opportunity for those to apply for US Passports with State Department officials on hand at one convenient location.

For questions or further information, please contact the RLSO SW at (619) 556-6322.

Victim and Witness Assistance Program

VICTIM AND WITNESS ASSISTANCE PROGRAM

OPNAVINST 5800.7A requires every command to appoint a Victim Witness Assistance Coordinator (VWAC) in writing and ensure command personnel are educated on the rights of crime victims and witnesses. Please note that the VWAP program is a separate program from SAPR and FAP, with distinct requirements. RLSO SW provides quarterly training for new VWACs. RSVP is appreciated but not required.

Upcoming trainings:

24 October 2011

23 January 2012

Time: 1300

Location: Fleet and Family Support Center, NBSD, Bldg 259, Classroom 1

RSVP and/or Questions: Nya Ayala, (619) 556-0237, nya.ayala@navy.mil

Waterfront Training Outreach

WATERFRONT TRAINING OUTREACH

Come join us at our Monthly Legal Officer Brown Bag Lunch/Discussion! Hosted by COMNAVSURFOR Legal and RLSO SW Command Services.

When: Thursday, November 10, 1200-1300
Thursday, December 15, 1200-1300

Where: NBSD (wet side), Waterfront Recreation Center (near Pier 2, across the street from the Base Theater). Blue and Gold room.

What: The HOTTEST legal topics of the day!

Plus JAGS will be available to answer any and all legal questions. Tell us what issues you are facing so we can train on your specific topic. RSVP is appreciated but not required. Thank you for your support.

RSVP to LT Mario Correa at mario.correa@navy.mil.

Frequently Asked Legal Questions

FREQUENTLY ASKED QUESTIONS

What is the appropriate way for commands to request police reports?

In order to avoid duplicative requests for civilian police reports from individual commands, it is imperative that all commands utilize the Commander, Navy Region Southwest (CNRSW) Military Court Liaison in obtaining police reports. CNRSW's Military Court Liaison is MA2 Rodgerson and she may be reached via email at janet.rodgerson@navy.mil or by phone at (619) 532-1746. Please be sure to submit the standard police report request form to MA2 Rodgerson via email. Also, if you are in need of the standard police report request form, then feel free to contact her and she will forward one on to you.

Can I use a government vehicle for personal errands when traveling between sites?

No. Personal errands are never official business, and you may not combine official business and personal business (*i.e.*, personal errands).

What is the latest information on the synthetic drug known as "bath salts"?

The United States Drug Enforcement Administration (DEA) will use its emergency scheduling authority to ban three chemicals used in synthetic drugs known as "bath salts". The DEA states that "this action was necessary to protect the public from the imminent hazard posed by these dangerous chemicals." The DEA expects the ban to take place on or about October 11th. The final order will be published in the Federal Register and will designate these chemicals as Schedule I controlled substances, making them illegal and placing them in the most restrictive category, which is reserved for unsafe, highly abused substances with no currently accepted medical use in the United States.

	<div data-bbox="781 153 1252 197" data-label="Section-Header"><p><u>TOPICS FOR FUTURE ISSUES</u></p></div> <div data-bbox="544 220 1451 304" data-label="Text"><p>If you have a topic you'd like to see discussed in the next newsletter, please forward your request to Nya Ayala at nya.ayala@navy.mil.</p></div>
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